



**FLATHEAD COUNTY LAKE AND LAKESHORE  
APPLICATION FOR A VARIANCE**

SECTION OF REGULATIONS VARIANCE REQUEST APPLIES TO:

**Impervious Cover:**

**4.2(E)(2)(a & b): Standards**

- a. The total of all constructed impervious surface areas over the body of water, at high water elevation, shall not exceed eight hundred (800) square feet per one hundred (100) feet of shoreline.**
- b. The total of all constructed impervious surface areas within the lake and lakeshore protection area shall not exceed one thousand (1000) square feet per one hundred (100) feet of shoreline.**

**Retaining Walls:**

(Note: There are already concrete retaining walls within this channel, defining the lakeshore.)

**4.3(E)(2)(a)(3): Retaining walls and rip rap designed to extend the land area into the lake shall not be permitted.**

**4.3(E)(2)(c)(7): If an existing wall has to be replaced, it shall be completely removed from the Lakeshore Protection Zone and the replacement wall shall be constructed in essentially the same location as the existing wall. If removal of the wall proves unfeasible or will cause environmental hazards (sedimentation, bank failure, etc.), a new wall may be constructed up to three (3) feet lakeward of the existing wall. Typically one such extension into the lake is allowed.**

**Dredge, Fill & Swim Beach Creation:**

**4.3(F)(2)(e): Fill projects for the purpose of expanding existing land areas shall not be permitted.**

**4.3(F)(2)(f): Discharge of fill material directly into the lake shall not be permitted.**

**4.3(F)(2)(h): Addition of rock to the lakebed and lakeshore protection zone is permissible activity but shall be reviewed on a case-by-case basis, subject to the following requirements:**

- (3) Placement of fill directly into the waters of any lake is prohibited.**
- (4) All fill shall be clean, washed rock with a minimum diameter of ¾ inch and a maximum diameter to be determined at the time of on-site inspection free of silts, sands and fines. Rock type, size and color shall approximate that existing on the adjacent lakeshore.**
- (5) Maximum fill depth is four to six inches.**
- (6) The volume of fill shall not exceed one cubic yard per sixteen lineal feet of lake frontage.**

**Docks, Wharfs & Piers:**

**4.3(A)(2)(a)(9): The width of the deck of a dock shall be limited to eight (8) feet.**

**Impervious Cover: Marinas:**

**4.3(B)(2)(c)(4):** The amount of impervious (constructed) surface in the lakeshore protection zone per property shall not exceed 15 square feet for each lineal foot of lakeshore frontage.

**4.3(B)(2)(c)(5):** The amount of impervious (constructed) surface located below the mean annual high water line shall not exceed 12 square feet for each lineal foot of lakeshore frontage.

**FINDINGS OF APPROPRIATENESS AND NEED:**

*What unusual circumstances exist such that a strict enforcement of these requirements and standards would result in an undue hardship to you?*

Because the Lakeside Marina has developed over time with decisions based on lesser population, different priorities and different lakeshore standards, leaving the current owner with this long, shallow channel within the Marina property that bisects the Marina operations, forcing the users and customers of the facility (and the community) to use an inadequate, uneven dirt path at the edge of the highway to access one side from the other. Also, pedestrians leaving vehicles and boat trailers in overflow parking lots across the highway and further south, must walk to the Bierney Creek crosswalk, or more typically, dash across the highway between streams of cars.

The additional land area provided by filling this 60' wide portion of that channel, at this critical location for the commercial marina and restaurant, and cruise boat, and public boat launch operations could alleviate the above described conditions.

*Are there any reasonable alternatives to this project which would allow you to conform to the above regulations? (Please list)*

The Flathead County Lakeshore 2006 Settlement Agreement with Lakeside Marina (p. 6, item #17) allows for replacement of the elevated floor deck structure within the original Rosario's restaurant outline (non-compliant, grandfathered). A replacement of this original structure would not address the issue that has been evident (as described in the 2004 Joint Application) of the "shallow man-made waterway".

There is no alternative to this proposal that would also create the described benefits of this current proposal. Members of the community (including the Lakeside Community Development Foundation), the surrounding business owners, and a local water quality watch group (Flathead Lakeshore Protection Association), are in favor of this proposal and its benefits.

These benefits include shortening this portion of the harbor to improve water circulation (not stagnation) and to intercept impeded water, for filtration/treatment before discharging back into the lake.

Providing walkways on the east (marina) side and the west (highway side) enhance safe pedestrian access; 20 additional onsite parking space add up to fewer persons having to

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**cross the busy highway during peak seasons. Landscaping strips improve not only the aesthetics of this location, but also provide additional erosion control.**

*Granting of the variance shall not have adverse impacts on the lake or lakeshore in terms of the “policy Criteria for issuance of a Permit” below during either construction or utilization:*

*Will granting of the variance materially diminish water quality?*

**The materials used for construction will be prevented from interaction with lake water, either directly or airborne during the process, and effects upon water quality will be avoided. There will be no removal of ground cover, but instead be the addition of the appropriate surfacing materials such as washed gravel and native shrubs and vegetation.**

**The proposal to install the Jellyfish stormwater filtration system will only add to protecting water quality, as will the shortened channel will improve the circulation of lake water.**

*Will granting of the variance materially diminish habitat for fish or wildlife?*

**During construction, all soils and debris will be contained with silt fencing, materials will be kept outside of the LPZ away from open water (during “low pool” season), and with the addition of fill material behind the retaining wall, compaction will take place to keep material in place.**

**Since this location has historically been, and is currently operating as a commercial marina (with concrete retaining walls typical), it is unlikely to be critical habitat for fish or wildlife.**

*Will granting of the variance interfere with navigation or other lawful recreation?*

**This proposal creates improvements within a functioning commercial marina facility, recently remodeled (2019) to better serve the community. The proposed twenty additional parking spaces on the east side of the highway will lessen the number of highway crossings that patrons of the Marina, the Harbor Grille, the adjacent public boat launch, and the Far West Cruise (and summer concerts and food festivals) need to make from the overflow parking lot on the west side of the highway. These proposed improvements, including the extension of Lakeside’s sidewalks, serve to enhance a facility already dedicated to providing proper lake access and services for boat users, lakeshore diners, and other visitors.**

*Will granting of the variance create a public nuisance?*

**This proposal was put together to alleviate a few nuisances, concerns expressed by members of the community. During the 2019 remodeling, demolition of old structures, construction of improvements to the existing restaurant, the fueling station, restrooms and convenience store, the visible US Highway 93 culvert discharge into the lake was brought up, professional water testing was done (see attached report).**

**Comments were made about the long, open (and ugly) channel. There was a demand for more onsite parking spaces. Customers mentioned “poor curb appeal—can’t there be some sort of landscaping?” Our local nonprofit, the Lakeside Community Development Foundation has had a long term goal of sidewalks or pedestrian path, continuous through**

**the center of Lakeside. Montana Department of Transportation would not allow the highway right-of-way to be used for this sidewalk, and our Flathead County Commissioners wanted the owner to build the sidewalk within his own (Marina) property, assuming all costs of construction and maintenance. It was out of all these deficiencies that the owner came up with this entire project proposal.**

*Will granting of the variance create a visual impact discordant with natural scenic values, as determined by the governing body, where such values form the predominant landscape elements?*

**The surrounding characteristics of this project location are that of commercial buildings: a bank, a motel, a gas station, a tavern, a business center; to the north, an open, narrow shoreline with a public boat launch, private beaches and a public beach and dock. Because of the nature of the marina touching the lakeshore, the owner has chosen the aesthetic of keeping all built forms as minimal as possible, either in height, mass, or materials. Because the surroundings are somewhat barren, the owner has chosen to incorporate landscaping into the finishing of this proposed project. This includes installing native shrubs within gravel beds and seasonal large scale planters along the property edges (with all landscaping features allowing a view to the water).**

*Will granting of the variance alter the characteristic of the shoreline?*

**This specific portion of Flathead lake is not a natural shoreline but was, in the past, altered by means of dredging and filling (please refer to vicinity maps to see the natural shoreline contour, and the carved out rectangular channel of the project site). The owner proposes what is better described as reclaiming a portion of the shoreline, and creating a buffer from the busy highway to the lake water.**

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